



Amigos de la Gente de Edad

What to do in case of death

Introduction

The death of a loved one is one of the most traumatic experiences we will have to deal with in life: knowing what to do in the event will not ease the distress and pain but will help everyone concerned to organise the arrangements correctly.

As the procedures in case of death in Spain differ from those in the UK, this Infosheet is designed to give you some basic information to guide you through them.

If you are reading this Infosheet for information only, it is strongly recommended that when you have finished reading it, you consider:

- investigating the costs of taking out a funeral insurance or a pre-paid funeral plan for you and your loved ones
- finding out which local funeral companies or funeral agents speak both English and Spanish and keeping a note of their details to hand so that you and your family know who to contact
- preparing written instructions of your wishes for your funeral arrangements and leaving them in a ready place known to your next of kin or with the funeral company. (See also **Living wills** below).

Planning ahead will mean that when the day comes when you have to make funeral arrangements for a loved one or someone has to make arrangements for you, at least a little of the emotional stress will be alleviated. The financial burden will also be eased, if you have taken out a funeral insurance or a pre-paid funeral plan.

Informing the authorities

Natural causes

If your spouse, partner, relative or friend dies in hospital, the hospital authorities will take care of the administrative details.

If death occurs in a public place, e.g. in a traffic accident, in the street or in a commercial establishment, the police will be called as a matter of course.

If the death occurs at home, you should:

- Call the 112 multi-lingual emergency service (this service is for all emergencies) or the municipal police on 092 (*policía municipal*) who will advise the Forensic Judge/Coroner (*Juez Forense*) who will come to the home to authorize the removal of the body. N.B. It is important that you do not touch or move the body.
- If the deceased had been receiving medical care and had been seen recently by their own doctor or any doctor in fact, you should also contact that doctor who will certify the cause of death and issue a medical death certificate.
- Contact a local funeral parlour (*tanatorio*), the local undertakers (*pompas fúnebres*) or a funeral agent of your choice.

Judicial cases

If death has occurred suddenly or is due to an accident, or the Forensic Judge or doctor that attends is in any doubt as to the cause of death, the death is deemed a Judicial case and an autopsy will be necessary. If this is the case, the deceased will be taken to the Forensic Institute (*Instituto Anatómico Forense*) where an autopsy will be carried out to find the cause of death.

Once this has been ascertained, either the family will go to the court to obtain the permits for the body to be released or in some cases a funeral company can do this on your behalf.

In all instances, **you** will have to make the funeral arrangements (see **Funeral arrangements** below).

Protecting funeral wishes

In Spain, the hospital, police or doctor will automatically call out the nearest funeral director if you do not make it known to them that you have a particular funeral director/agent in mind.

Depending on where you live, you will find that the majority of Spanish funeral companies do not speak English. If you do not speak Spanish, communications between you will be very difficult and there is a possibility of signing a written contract that contains the provision of services that may not comply entirely with your wishes.

If you do not have a preference and the local funeral director attends, to ensure that the funeral arrangements are carried out in line with your wishes and those of the deceased:

- make sure you understand what services you are contracting before signing any paperwork, i.e. ask a Spanish speaking friend/neighbour to help
- try to avoid handing over passports especially that of the deceased: offer a photocopy if you have one. In Judicial cases, the police may

insist on taking the original which will be given back when the Judicial permits are completed.

If you do have a particular funeral company in mind, make sure you advise the appropriate officials present, contacting the funeral company immediately. Funeral companies have a 24-hours contact number so make sure you keep that number in your telephone book.

The ruling which applies to deaths that occur away from home has changed:

- in Judicial cases, the police will automatically call the local funeral director.
- under the new ruling if a person dies in hospital in a different municipality from where that person lives and the family want a local funeral director in the place in which they live to collect the body, they should tell the hospital authorities.

It may be advisable to appoint the services of an English-speaking funeral agent assuming one is available in your area. This company will act as an intermediary and will liaise with the local (and international, if necessary) funeral directors, the crematorium or cemetery, civil registry, courts, etc., on behalf of the family. It will sort out all the necessary paperwork and organise arrangements, including repatriation of the remains if required.

Death certificates

To avoid confusion, note that there are two categories of death certificates:

- the doctor's medical death certificate (which confirms the identification of the body and the cause of death) and
- the local Civil Registry death certificate (see **Civil Registry death certificates** below).

Registering the death

All deaths must be registered in the country where the death occurs.

In Spain, this can be done in person or by post (or via the internet in some locations only) at the local Spanish Civil Registry (*Registro Civil*) usually situated in the Court Building (*Juzgado*) and must be done within 24 hours of the death.

A death cannot be registered at the *Registro Civil* without the presentation of a medical death certificate either obtained from the hospital or from the doctor who attended the deceased at home. If the deceased has undergone an autopsy, the registration of the death will be processed by judicial means.

If you are registering the death, make sure you have sufficient information and documentation regarding both the person who has died and yourself. This should include:

- The medical death certificate obtained from the hospital or from the doctor attending the deceased at home

- Name, surname and passport or National Identification Card/DNI number of the person requesting the certificate
- Details of the next of kin of the person who has died
- The following relating to the deceased:
 - Name and surnames of the deceased
 - Names of the parents
 - Marital status
 - Nationality
 - Date of birth and location where born
 - Passport number or DNI (National identification number)
 - Last known residence/address
 - Date, time and location of the death (as detailed in medical death certificate)
 - Place of burial, if indicated on the declaration of death or the certification from the Authority or civil servant in charge of the cemetery.
- The type of certificate you would like to receive (see **Civil Registry death certificates** below).

Finally, provide a contact telephone number where you can be reached to clarify any of the above information.

Civil Registry death certificates

There are several types of local Civil Registry death certificates in Spain:

1. Extract: these contain the basic information necessary for the following certificates -

- a normal Spanish death certificate (written in Spanish) and
- an International Death Certificate (written in a number of languages including Spanish and English).

2. Literal: these consist of all the information pertaining to the death.

A normal Spanish death certificate will be needed for Spanish bank accounts, life insurance policies or most entities in Spain that need to be advised but an International certificate is recommended for all UK entities.

A literal death certificate is not normally needed for matters pertaining to death in Spain.

The death certificate, issued by the local *Registro Civil* is usually available within two to three days and can be collected in person or be sent by post. In some towns it will be issued at the offices of the local Justice of the Peace (*Juzgado de Paz*). Remember to ask for as many original copies (*copias originales*) as you will need. These are normally free of charge.

As a guide, if the deceased was a British citizen, the following authorities/agencies may require a copy of the death certificate (see section Useful Contacts below for contact details):

- **Registro Civil in Madrid** (see **Wills and Inheritance** below)
- **Probate Office**, if a UK will exists, or if the deceased had property/assets in the UK (see **Wills and Inheritance** below)
- **Department of Work and Pensions in the UK**, if the deceased was in receipt of a British State Pension
- **Spanish Social Security** (*Instituto de Seguridad Social INSS*), if the deceased had worked in Spain and/or was in receipt of a Spanish pension
- **Paymaster General**, if the deceased received payment from the State or company pension in the UK
- **Inland Revenue**, if the deceased paid UK tax
- **Banks** (in UK, Spain and elsewhere) where the deceased held accounts
- **Insurance companies** which held life policies on the life of the deceased (see also **Spanish life insurance policies** below)
- **Private pension companies**
- **Yourself**, for your own records. This is particularly important if you decide to rent a niche for the deceased as it is required to produce the death certificate at a future date if you have to transfer the remains to another place.

Notes:

- a. Some British government agencies and UK-based executors need the International death certificate to be verified by a Notary Public (*Notario*) based in Spain.
- b. The British Consular Offices in Spain **no longer verify death certificates**.
- c. Varying rules may apply under Scottish, Channel Island or Isle of Man law.
- d. Other nationals may obtain details of certificates required by contacting their local Consular Office.

It is advisable to make a list of all the authorities/agencies both in the UK and in Spain, needing death certificates. If it is found at some point that you have obtained insufficient original copies, go back to the *Registro Civil* and request more. **DO NOT FORGET TO KEEP A COPY FOR YOUR OWN RECORD.**

Registering the death with the British Consulate

It is not obligatory to register the death of a British national in Spain with the British Consulate-General. However, if you do there are the following advantages:

- a British form of the death certificate is then available and
- a record of the death is then held at the General Register Office in the UK.

The documents you will need are:

- application form available from the British Consulate offices or downloaded at:
http://www.fco.gov.uk/Files/kfile/death_registrationform.pdf
- the local death certificate from the Civil Registry
- the deceased's passport or full British birth certificate as proof of citizenship

You then have to take (or send by post) the above documents to the British Consulate-General in Madrid (see below for contact details) with the appropriate registration fee.

Funeral arrangements

Once the death registration has been completed, under normal circumstances, a burial licence will be issued and the burial or cremation can take place.

Normally in Spain, funerals are held within 24 - 48 hours of death but they can be delayed to allow for family or friends to arrive. In this case the body will be kept in a morgue at an additional cost.

In Spain, the undertakers are licensed by the competent authority to manage funeral arrangements. If you do not have any contact details, your local Consulate may be able to provide a list of local/international funeral directors or funeral agents.

When the funeral company/agent has been appointed, you have to:

- provide them with:
 - the passport of the deceased and your own
 - the forenames of the mother and father of the deceased
- sign the appropriate documents relating to the services you have contracted, e.g., type of coffin or urn, religious service, obituary, flowers, etc.

Although all arrangements will be organised by the funeral company, you will have to decide the details. Before meeting the undertaker, consider such points as:

- a. Whether the body is to be clothed in any particular way
- b. Whether any personal jewellery is to be removed from the body.
- c. Whether the body contains any pins, plates, pacemakers, hip/knee replacements, dentures, etc.
- d. Whether the deceased had made any particular requests in respect to the arrangements.
- e. Whether the deceased was non-Christian and requires special treatment
- f. Whether the deceased had funeral insurance or a pre-paid funeral plan.
- g. Whether the body is to be 'laid out'.
- h. Whether the body is to be available for viewing (*velatorio*): before burial/cremation. You can decide the amount of time for viewing by arrangement with the funeral company.
- i. The transport of human remains to the country of origin for burial or cremation is an extremely expensive procedure as the body has to be embalmed and transported in a lead-lined coffin.
- j. Repatriation of ashes is an alternative: an appropriate certificate is required
- k. In Spain a coffin is normally placed in a recess (a method of burial rare in the UK) known as a niche (*nicho*). The cost of purchasing a niche is

determined by its position in the group. The highest is the cheapest and the middle the most expensive. Some niches may be underground.

N.B.

- **DO NOT BE RUSHED** - if you are doubtful, have someone with you.
- Be sure you are aware of the **FULL COST** of the services on which you decide.

There is a wide range of services available. Costs vary from location to location and should be discussed with the respective undertaker. There are no hard and fast rules. In some localities you can buy a niche, in others you can make a one-off payment which covers the rent in perpetuity whilst in others the rental is on a five-year renewable basis.

You must advise the Town Council (*Ayuntamiento*) who maintains the cemetery of any change of address so that when the period of rental comes to an end, they can contact you to see if you wish to renew the rental contract. Failure to pay the rent results in the removal of the coffin from the niche and the bones being put in a common ossuary.

In some circumstances, funerals may be obtained for a low price by the use of a common grave. In cases of great need and depending on the local authority, it may be possible to get this service free of charge providing it is authorised by a local social worker.

Cremation is also an option (although not all locations have a crematorium) and once again, costs vary from location to location. There is a small charge if you want the ashes deposited in a common depository.

Wills and inheritance

Assets in Spain

The following is given as a guide only. All wills made in Spain are executed before a Notary Public (*Notario*) who in turn will automatically lodge a copy with the **Registro Civil** in Madrid.

The Last Will and Testament Certificate (*Certificado de Últimas Voluntades*) is applied for once 15 working days have elapsed following the date of death.

Firstly, you must apply to the **Registro Civil** in Madrid for the *Certificado de Últimas Voluntades*.

The simplest way to do this is through a lawyer or a *gestor* (agent with specialised training in certain legal/fiscal aspects but who is not a lawyer - there is no direct equivalent in the UK) who will send an original copy of the Civil Registry death certificate with full details of the deceased.

However, it is much easier to apply yourself. All the information is available in English on the website of the *Ministerio de Justicia* (Spanish Ministry of Justice: see section **Useful contacts** for contact details).

The documents required are as follows:

- the new application form Modelo 790, valid from 19 June 2007, (available from your local *Registro Civil* or online at the *Ministerio de Justicia* website) duly completed with the exact data as on the death certificate (if you make a mistake, you can exchange it for another one, free of charge)
- a death certificate issued by the *Registro Civil* in the town where the deceased died
- proof of payment of the corresponding administration fee of €3.40 (June 2007) for the *Certificado de Actos de Última Voluntad* (Last Will and Testament Certificate) paid into one of the collaborating banking entities (nearly all of them).

You can apply:

- in person at the *Registro de Últimas Voluntades* (Registry of Last Wills and Testaments) in Madrid (see below for the address) or at your local *Registro Civil* office, or
- by writing a letter with the above detailed documents to the *Registro de Últimas Voluntades* in Madrid (see below for the address which is different from applications in person) and by using one of the two envelopes supplied with application form Modelo 790. The Certificate will be sent to you in the other envelope which you should stamp and address to yourself.

When you have this certificate, take it to a *Notario* (Notary Public) where the Inheritance Deed (*Escritura de Aceptación de Herencia*) will be prepared. This is the deed that has to be signed by all heirs (or their representatives) simultaneously which by doing so denotes they accept their inheritance.

One is not obliged to accept the inheritance but once the papers are signed the heirs are responsible for any payments for the reception of the inheritance, i.e., taxes, etc. Any heirs not in Spain can appoint a representative (holding their power of attorney issued in Spain) which can be arranged by a *Notario* in Spain.

To prepare this deed, the *Notario* will need full details of all assets, deeds and the last Urban/Rural tax receipt for any property, documentation covering bank accounts, shares, etc. Be sure you understand exactly what is required so that the *Escritura de Aceptación de Herencia* is correctly prepared.

Once the *Escritura de Aceptación de Herencia* has been signed, you will be given an original and several official copies. These must be taken to the local Autonomous Community tax office (*oficina de Hacienda de Comunidad Autónoma*, not to be confused with the *Agencia Tributaria* or *Ministerio de Economía y Hacienda*) to pay the death duties.

Remember **DEATH DUTIES MUST BE PAID WITHIN SIX MONTHS OF DEATH** or surcharges will be applied.

If you are unable to complete the *Escritura de Aceptación de Herencia* within this time, you can present an *autoliquidación* by going to your nearest Spanish tax office, completing the appropriate form and paying the estimated taxes. These taxes will be adjusted later when the deed is available.

Where property is involved (after you have paid taxes and being in receipt of the stamped inheritance deed), the inheritance deed must be taken to the Property Registry (*Registro de Propiedad*) for the name(s) of the new owner(s) of property to be registered. Another copy of the inheritance deed must then be taken to the local Town Hall to pay the (*Plusvalía*) tax. **THAT MUST ALSO BE PAID WITHIN SIX MONTHS.** It is advisable that you rely on professional advice in all these matters.

NOTE:

- A British Power of Attorney is not valid in Spain unless it has been legalised by the Spanish Embassy
- If a Power of Attorney has been signed by the deceased, it is automatically revoked upon death.

Assets in the UK

The following is given as a guide. Assets held in a country other than the UK are subject to the laws of that country.

If the deceased has left a British will appointing an executor, that person should be contacted immediately and should be sent an original copy of the international death certificate verified by a Notary Public (*Notario*).

NOTE: If no executor has been appointed, or you have been named as the executor, there are two courses open to you:

- a) You can appoint someone in the U.K. (usually a lawyer) to act on your behalf by power of attorney
- b) You can tackle the matter yourself.

In the case of b), the first thing to do is to apply to the Probate Office for the necessary forms. As you will have to go to the Probate Office for a personal interview, it is wise to choose an office within easy reach. The forms come with complete instructions but, should you have any doubts, seek expert advice.

Death duty is payable on estates in the U.K. valued at over £300,000 in the 2007/8 tax year, and an extra stamp duty form (for the Inland Revenue) must be completed in this case.

Death duties, if due, must be paid within SIX MONTHS of death. If, for some reason, you are unable to complete the Probate Forms within this time, you should contact the Inland Revenue and pay estimated taxes. Any difference will be adjusted later when the Probate Forms have been completed and Probate granted.

Spanish life insurance policies

In June 2007, the Ministry of Justice introduced a Register of Life Insurance Policy Holders (*Registro de Contratos de Seguro de Cobertura de Fallecimiento*) which will enable interested parties to check whether or not a life insurance policy had been taken out by the deceased in Spain.

A certificate can be applied for 15 working days after the person's death by producing the literal death certificate from the Registro Civil along with proof of payment of the corresponding fee of €3.33 (June 2007). Further details can be obtained from the Ministry of Justice (see **Useful contacts** for contact details).

Living wills

In most areas of Spain, it is now possible to register a Living Will (*Testamento Vital*) with the local health authorities. Doctors can consult this registry to ascertain the wishes of the testator on the extent of therapeutic treatment they would like to receive, should they be in a position whereby – for physical or mental reasons – they are unable to express them. The document could also contain instructions regarding burial or cremation, and authorisation for organ donation. You should check with your lawyer for details.

NOTE: Most foreigners find it helpful to employ professionals to assist with the paperwork.

USEFUL CONTACTS

International Pension Centre

Department for Work and Pensions

Tyneview Park

Benton

Newcastle-upon-Tyne

NE98 1BA

Tel.: +44 191 218 7777

Fax: +44 191 218 7381

Website: <http://www.thepensionservice.gov.uk/ipc/home.asp>

Email: tpv.internationalqueries@thepensionservice.gsi.gov.uk

HM Paymaster General

HM Treasury

Room 3/30

1 Horse Guards Road

London

SW1A 2HQ

Tel: +44 1293 604 546 (switchboard)

Email: opgservice@paymaster.co.uk

Inland Revenue

Tel No: +44 151 210 2222

Probate Helpline

Tel No: +44 845 3020 900

Spanish Social Security Institute (*Instituto de Seguridad Social (INSS)*)

Tel No: 900 16 65 65/901 50 20 50

Ministry of Justice (*Ministerio de Justicia*)

Customer helpline: 902 007 214

Website: www.mjusticia.es

Locations of Civil Registry offices in Spain:

www.mjusticia.es/wps/portal/DIR_RegistrosCiviles

Last Will & Testament Certificates

(in person)

Registro General de Actos de Última Voluntad

Ministerio de Justicia

Plaza de Jacinto Benavente, 3

Madrid Planta Baja

(by post)

Registro General de Actos de Última Voluntad

Ministerio de Justicia

Plaza de Jacinto Benavente, 3

28012 Madrid

British Consulate-General

Consulado General Británico

Paseo de Recoletos, 7/9

28004 Madrid

Tel.: 91 524 97 00

Fax: 91 524 97 30

Email: madridconsulate@fco.gov.uk

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